

**These charges are only allegations which
may be contested by the licensee in an
Administrative hearing.**

IN THE MATTER
OF
JOHN M. GAYDEN, JR., M.D.

NOTICE OF
REFERRAL
PROCEEDING

TO: JOHN M. GAYDEN, JR., M.D.



PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p) and N.Y. State Admin. Proc. Act §§301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on July 19, 2017 at 10:30 a.m., at the offices of the New York State Department of Health, Riverview Center, 150 Broadway, Suite 510, Menands (Albany), NY 12204-2719.¹

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel who shall be an attorney admitted to practice in New York state. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150

¹ For GPS purposes, enter "Menands", not "Albany".

Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION (Telephone: (518-402-0748), (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, no later than twenty days prior to the scheduled date of the Referral Proceeding, as indicated above.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(p), you shall file a written answer to each of the charges and allegations in the Statement of Charges at least ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. You may also file a written brief and affidavits with the Committee. All such documents shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below, at least ten days prior to the date of the hearing. Should the parties have objection(s) to proposed witnesses or documentary evidence, the party raising the objection(s) shall contact the Bureau of Adjudication at least three days prior to the hearing date to arrange for a pre-hearing conference with the Administrative Law Judge, prior to the hearing date.

Not later than ten days prior to the date of the hearing, you are required to file one copy of your proposed exhibits (if any) with the Bureau of Adjudication at the address indicated above, and a copy of all such documents/exhibits must be served on the same date on the Department of Health attorney indicated below. On the day of the hearing, you are also required to provide the original of such exhibits and three copies, for use by the Committee.

Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO OTHER SANCTIONS SET OUT IN NEW
YORK PUBLIC HEALTH LAW §§230-a. YOU ARE URGED
TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.

DATED: Albany, New York
May 18 2017



MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

Inquiries should be addressed to:

Nathanial White
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, NY 12237
(518) 473-4282

IN THE MATTER
OF
JOHN M. GAYDEN, JR., M.D.

STATEMENT
OF
CHARGES

JOHN M. GAYDEN, JR., M.D., the Respondent, was authorized to practice medicine in New York State on or about November 14, 1983, by the issuance of license number 156717 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about April 21, 2015, the Florida Board of Medicine ("Florida Board") issued a Final Order whereby the Florida Board accepted Respondent's offer to voluntarily relinquish his license to practice medicine in the State of Florida. The Final Order constituted disciplinary action against Respondent's license. The Final Order resolved two administrative complaints filed against Respondent, one which alleged that Respondent, among other things, prescribed inappropriate and excessive amounts of controlled substances to three patients, failed to monitor their use of controlled substances, failed to perform adequate evaluations at appropriate intervals for those patients, and failed to maintain an adequate medical record for all three patients. The Administrative Complaint also alleged that Respondent engaged in a sexual relationship with a 17-year-old female who Respondent provided oxycodone and marijuana for recreational use. The Administrative Complaint further alleged that Respondent provided the 17-year-old female controlled substances immediately prior to engaging her in sexual activities. It was further alleged that Respondent prescribed the 17-year-old female Valtrex to treat a medical condition thus establishing a physician-patient relationship. The Administrative Complaint charged Respondent with violating various provisions of Florida law that subjected Respondent to disciplinary action.

B. The conduct resulting in the Florida disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following sections of New York State law:

1. New York Education Law § 6530(3) (practicing the profession with negligence on more than one occasion);
2. New York Education Law § 6530(4) (practicing the profession with gross negligence on a particular occasion);
3. New York Education Law § 6530(5) (practicing the profession with incompetence on more than one occasion);
4. New York Education Law § 6530(6) (practicing the profession with gross incompetence);
5. New York Education Law § 6530(17) (exercising undue influence on a patient);
6. New York Education Law § 6530(20) (conduct in the practice of medicine which evidences moral unfitness to practice medicine); and/or
7. New York Education Law § 6530(32) (failing to maintain a record for each patient).

SPECIFICATION OF CHARGES

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law §§ 6530[3], [4], [5], [6], [17], [20] and/or [32]) as alleged in the facts of the following:

1. Paragraphs A and B.

DATE: May 18, 2017
Albany, New York



MICHAEL A. FISER
Deputy Counsel
Bureau of Professional Medical Conduct